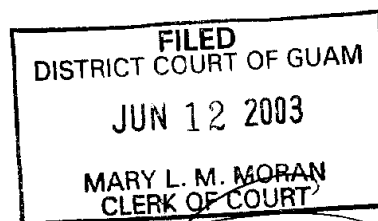


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## UNITED STATES DISTRICT COURT TERRITORY OF GUAM

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 GUAM WATERWORKS AUTHORITY )  
 and the GOVERNMENT OF GUAM, )  
 )  
 )  
 Defendants. )  
 )

CIVIL CASE NO. 02-00035

**STIPULATED MOTION TO  
 SUSPEND REQUIREMENT OF  
 SUBMITTING SCHEDULING  
 ORDER AND TO STAY  
 LITIGATION**

1 The United States filed a complaint in this action on December 20, 2002, seeking  
2 injunctive relief and the assessment of civil penalties against the Guam Waterworks  
3 Authority ("GWA") under the Clean Water Act, 33 U.S.C. §§ 1251 - 1387 (the "CWA"),  
4 and the Safe Drinking Water Act, 42 U.S.C. §§ 300f - 300j-26 (the "SDWA"). The  
5 Government of Guam ("GovGuam") was joined as a statutory defendant in this action  
6 pursuant to CWA section 309(e), 33 U.S.C. § 1319(e).

7 In order to allow a period of time for negotiations with the defendants, the United  
8 States agreed to delay service of the complaint for a 60-day period. The parties also  
9 agreed to extend the time for answering the complaint to allow additional time for  
10 negotiations.

11 This Court issued a Scheduling Notice on February 5, 2003, requiring a proposed  
12 Scheduling Order and Discovery Plan to be filed on March 5, 2003, and setting a  
13 Scheduling Conference for March 16, 2003. The United States twice requested an  
14 extension of the Scheduling Conference to allow the parties to engage in settlement  
15 discussions. The Court granted both requests and extended the time for the Scheduling  
16 Conference as well as for the submittal of the proposed Scheduling Order and Discovery  
17 Plan.

18 After months of negotiations, the parties were able to reach an agreement on the  
19 terms of a Stipulated Order for Preliminary Relief ("Stipulated Order"), which the United  
20 States filed with /the Court on May 21, 2003. The 41-page Stipulated Order contains a  
21 comprehensive set of interim measures to address GWA's violations of the CWA and  
22 SDWA. Among other things, the Stipulated Order includes a set of schedules requiring  
23 GWA to implement a broad range of measures addressing GWA's management and

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1 organizational structures, operations and maintenance, financial administration, as well as  
2 short-term construction and rehabilitation  
3 projects.<sup>1</sup> On June 5, 2003, this Court approved and entered the Stipulated Order  
4 submitted by the parties.

5 As the Court stated in the Scheduling Notice, the Local Rules establish procedures  
6 for complying with Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure.  
7 Pursuant to Fed.R.Civ.P. 16, the Court may hold pretrial conferences and issue orders  
8 controlling the litigation from the outset. The purposes of this case management include:  
9 (1) to expedite the disposition of the action, (2) to discourage wasteful pretrial activities,  
10 and (3) to facilitate the settlement of the case. Fed.R.Civ.P. 16(a). Similarly, Fed.R.Civ.P.  
11 26(f) requires the parties to confer “to consider the nature and basis of their claims and  
12 defenses and the possibility of a prompt settlement or resolution of the case.” The parties  
13 achieved these purposes by negotiating the terms of the Stipulated Order, which sets dates  
14 for the immediate implementation of short-term projects and initial planning measures by  
15 GWA and GovGuam to address GWA’s compliance problems. The Stipulated Order is  
16 enforceable in all of its terms by this Court, and does not affect or resolve the United  
17 States’ claims for civil penalties or permanent injunctive relief. Stipulated Order at ¶¶ 70,  
18 71. The parties contemplate entering into a further stipulation to address additional  
19 compliance issues after Defendants’ completion of the initial planning  
20 measures set out in the Stipulated Order. Id. at p. 3.

21 At this stage, the parties believe that GWA’s resources should be directed at

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26 <sup>1</sup> The Stipulated Order sets various schedules for implementation of projects. Most projects are  
27 required to be completed within three years after the entry date of the Stipulated Order.

1 implementing the measures set out in the Stipulated Order. The parties estimate that it will  
2 take at least three years for GWA to implement the projects required by the Stipulated  
3 Order. During that three-year period, the parties will have the benefit of additional  
4 information provided by GWA's planning measures required by the Stipulated Order. It is  
5 conceivable that the parties may enter into a further stipulation or a consent decree to  
6 address any additional compliance issues. In order to allow GWA to focus on  
7 implementation issues under the Stipulated Order at this time, the parties respectfully  
8 request the Court to suspend the requirement that the parties submit a Scheduling Order  
9 and Discovery Plan and to stay this litigation.

10 Therefore, the parties jointly move that:

11 (1) The requirement to submit a proposed Scheduling Order and Discovery Plan  
12 shall be suspended and the Scheduling Conference set for June 16, 2003, shall be taken off  
13 calendar;

14 (2) All litigation in this case except that necessary to implement and enforce the  
15 terms of the Stipulated Order shall be stayed;

16 (3) If any party wishes to end the stay of this matter, it may end the stay by serving  
17 notice upon the other parties and the Court informing them that the stay is lifted; no action  
18 by the Court shall be necessary to lift the stay;

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1 (4) The party lifting the stay shall also concurrently request the Court to issue a  
2 Scheduling Notice requiring the submittal of a proposed Scheduling Order and Discovery  
3 Plan and setting a Scheduling Conference.

4 So stipulated this 9<sup>th</sup> day of June, 2003.

5 LEONARDO M. RAPADAS  
6 United States Attorney

7 BY: \_\_\_\_\_

8 MIKEL W. SCHWAB  
Assistant U.S. Attorney

9 For Guam Waterworks Authority and the Government of Guam, Defendants:

10 Dated: \_\_\_\_\_

11 6/9/03

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15 Dated: \_\_\_\_\_

16 June 9, 2003

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20  
21 **ORDER**

22  
23 APPROVED AND SO ORDERED this 11<sup>th</sup> day of June, 2003.

24  
25  
26 JOHN S. UNPINGCO  
27 Chief Judge

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**RECEIVED**

JUN 10 2003

DISTRICT COURT OF GUAM  
HAGATNA, GUAM